

United States v. Don Eugene Siegelman
and Richard M. Scrushy
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EXHIBIT 3

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Auburn jury foreman: 'Sell out' by governor was unacceptable

BY JACQUELINE KELLY
VILLAGER NEWS EDITOR

Bloomberg News called him "the serious guy who gets it." One news account failed after his looking away and fiddling with his glasses. A lawyer labeled him "amazing."

Most emphatically he did not enjoy the attention he earned serving as foreman of the federal jury that recently convicted HealthSouth Corp. founder Richard M. Scrushy of paying bribes to former Gov. Don Siegelman.

He was one of 18 jurors and alternates from as far away as Roanoke and Dothan who spent two months listening to testimony and deliberating before convicting Scrushy and Siegelman of bribery and conspiracy charges. Seven jurors were African-American. The black and white jury, including the foreman, where day job is [REDACTED]

"I didn't want to talk on the record, but I was deluged with requests from the press," [REDACTED] said recently. "I was nervous. This is not me. I do other things, and I took two months off my life."

The length of time the jury spent in deliberations sparked speculation in the press and among defense attorneys, who suggested jurors were split along racial lines, fighting among themselves, or rushing to get out before the Fourth of July weekend. That's all nonsense, said [REDACTED]

Jurors started every day holding hands and saying a prayer. Their prayer included the defendants, he said, because jurors felt no personal animosity toward Scrushy, Siegelman, former Siegelman chief of staff Paul Hennick or former highway depart-

ment chief Mark Roberts. Hennick and Roberts both were acquitted of all charges.

"We weighed the evidence."

"We didn't

want to crucify a lot of people, but we wanted to send a message. We know when we got that verdict we were going to shock the world."

For the duration of the trial, Hendrix ran at 5:30 every morning, left for Montgomery at 6:15 a.m. and met other

Birmingham, Scrushy started a religious-oriented television show, cultivated the city's black clergy and eventually became an ordained minister himself. After the trial, Scrushy denied reports that he paid a handful of journalists to provide favorable coverage.

"One of the stories that needs to come out is where this falls among landmark cases," [REDACTED] These jurors told Fred Gray that we believe in what you say about civil rights, but we also believe this man committed fraud against the state of Alabama.

Comparing Scrushy to Rosa Parks and MLK is a very sono-

In exchange, prosecutors said, Scrushy was named to the state's Certificate of Need board, which oversees expansion of hospitals in the state. HealthSouth, the company Scrushy headed, is the nation's largest operator of rehabilitation hospitals.

Hennick and Roberts were charged in other alleged pay-to-play schemes, making four defendants. Besides bribery and conspiracy, charges against the four included wiretapping and mail fraud.

Each juror received a notebook with 40 pages of documents along with information ranging from the definition of responsible doubt to the laws on bribery. They didn't have a road map, [REDACTED] said; until one young juror he described as "brilliant" got the ball rolling by creating a chart showing how each charge related to the others.

"Her organizational skills are what saved the whole [REDACTED] courtroom," [REDACTED] said. "Starting out, we had no idea what to do. This was a heavy thing for a bunch of normal people to have to do, and the judge said he didn't think another jury in

being even-handed, Fuller was absolutely the right man for the job," [REDACTED] said.

"We took the judge's instructions very seriously," he said. "We had great respect for him. He handled himself with such dignity and respect and he treated us so well that we looked at him as an absolute role model. We were going to

recall, "I wanted an answer but didn't get it, so I'm stuck. We went through all that to learn he's not going to give us a definitive answer."

In fact, the question made headlines around the state, and jurors were complimented for zeroing-in on the heart of the case. Because they were not allowed to read newspapers

Jurors sat at a distant location by 7:15 a.m. They were transported by van to the federal courthouse, where U.S. Judge [REDACTED] presided. [REDACTED] took copious notes as witness after witness gave testimony and a bevy of high-profile attorneys, including civil rights icon Fred Gray, buried Assistant U.S. Attorney Louis V. Franklin Sr. and his team.

Gray, the Tuskegee attorney who worked closely with both Rosa Parks and Martin Luther King Jr., invoked their memories and repeated their words in his defense of Scrushy, described by Gray as a white boy growing up on the wrong side of the tracks in Selma. "Pete at last, free at last, thank God almighty, we're free at last," Gray declaimed to jurors, using some of the rhetoric that worked in Scrushy's previous fraud trial. A year ago, Scrushy was acquitted of federal charges in the \$2.7 billion accounting scandal that rocked Birmingham's HealthSouth. Before that trial, which took place in

nothing.

Jurors were at first over-



whelmed by the complexity of the charges, [REDACTED] said. At the core of the charges against Scrushy and Siegelman was the allegation that Scrushy contributed \$500,000 to a fund established to support Siegelman's failed lottery proposal.

the next 25 years would have a

case of such complexity."

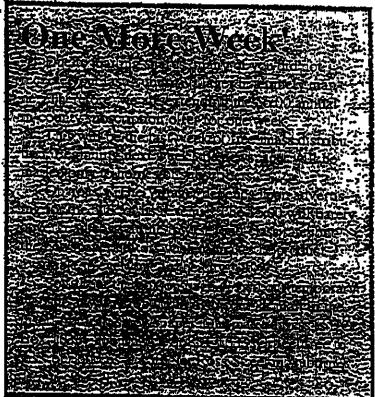
[REDACTED] has high praise for U.S. District Judge Fuller, a former district attorney for Coffee and Pike counties who in his short time on the bench has earned a reputation for

do what he said because he was the staff."

Jurors first reviewed each count and every bit of evidence that related to each count, but got hung up very early on the question of what constituted a bribe. When [REDACTED] asked the foreman, submitted the question to the judge, he expected a woman response, he said. Instead, he got hung up very early on the question of what constituted a bribe. When [REDACTED] asked the foreman,

"I'm thinking it's way too early in the game to tell the

See "Sell out" on page 7



Kochak, Morgan join Villager editorial team

Widely respected local journalists Jacqueline Kochak and Gillis Morgan have joined The Auburn Villager editorial team, it was announced today.

Kochak will serve as news editor while Morgan will write a weekly column for the editorial page.

Kochak formerly served

Coverage in 2001 and Best-Of-Depth News Coverage from the Alabama Press Association for a series on rape in 2001.

The Education Writers of America presented her with an Honorable Mention national award in 2002 for her story, "Links Among Trustees Extramarital," and she has re-



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[REDACTED]

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judge we're hearing, but the other 11 disagreed," [redacted] said. "I wrote the judge a second letter saying that we had gone through all the counts and all the evidence and were unable to reach even a partial verdict at this time so we were awaiting his instructions."

The judge called the jury into the courtroom and reminded them it was not unusual to take some time because of the complexity of the case. Some commentators have described the judge's instructions as an "Allen charge," when jurors are told to try to make a decision.

"I'm thinking, 'This is gonna get me crucified,'" [redacted] said. "I did not accuse anybody of sleeping. I learned enough about evidence that I wasn't going to accuse anybody of anything that I couldn't prove, especially to a federal judge."

Jurors weren't angry with [redacted] and when questioned by Fuller agreed the attention of some was lagging. In fact, the incident proved a turning point in deliberations.

"I'm already nervous as a cat about to hit bottom, knowing all those people are going to be called back to the

decide if further deliberation was possible," [redacted] said. They were also told they could select a new foreman.

Jurors supported [redacted] as foreman, but remained deadlocked after two votes. [redacted] was ready to go back to Fuller, but the other 11 jurors disagreed. They said they owed the defendants a verdict and would continue to deliberate. That's when the logjam broke.

Throughout deliberations, those jurors who had a wide allowance for reasonable doubt claimed those who took a hard line as being out-of-touch with the "real world," [redacted] said. When one of the jurors who had been dubbed a "princess" admitted some reasonable doubt, the jurors started moving closer together. One by one, people started putting their names on the list saying, "Yes, I can live with that," [redacted] said.

"We were playing attention and we were going to get this right," he said. "We narrowed the charges down to what I thought was the most serious offense of everything heard. I believe the most important message we could



Richard Scrushy

simple question. Did the governor sell that seat and did Scrushy buy that seat? I think he did, based on the evidence. Scrushy was a Bob Jones supporter who was going nowhere in the Siegelman administration. He gave money to Siegelman, and it all changed. If Scrushy had started out as a Siegelman supporter I might have believed different, but there was too much direct and circumstantial evidence of a quid pro quo. The evidence we had all added up to a guilty vote."

[redacted] said that as jury

"He gave us a little pep talk, which was so mildly worded that we didn't think it was an 'Allen charge,'" [redacted] said. "He was always gentle, kind, encouraging, grateful and approving. As if we could walk away."

Three days later, jurors were to closer to a decision although by that time they knew the charges by heart. Two more days passed, and some of the jurors who had worked so hard for so long seemed to be losing interest. [redacted] conveyed his concern unofficially to a marshal, who went to the judge without knowledge.

courtroom, [redacted] said. "But the judge looks up and smiles, then acknowledges that we've been through a lot and are weary."

Fuller said he would give jurors additional instructions the next morning. When they arrived, according to [redacted]

Fuller advised them to honestly assess the wisdom of continuing to deliberate. Jurors were told it was their duty to reach a verdict if they could and it was the duty of every juror to participate, but they had done their job if they had paid sufficient attention to the evidence and made up their minds. They were instructed to

send that for a governor to sell out is completely unacceptable."

When they reached a verdict, jurors gave themselves a round of applause.

"You know, we don't have anything against these folks," [redacted] said. "The decision was based on evidence. For me, it came down to one

function he probably got more credit and more blame than he deserved, because his main role was to make sure everyone got a chance to be heard. Now he's off to Hawaii for a long-awaited vacation with his family."

"I still can't believe I was part of it," he said. "This is history."

Local healing therapist receives international recognition

Dr. Elliot Peacock, D.C., of Auburn, was presented with a commendation award in San Antonio, Texas at the International Concept-Therapy conference, on Saturday, July 8, for his educational contributions and community service in several different areas of Zone Therapy.

"I was very happy," said Dr. Peacock. "I knew that I'd be attending the conference, but I didn't know they would be giving me the award."

Dr. Peacock is certified by the Concept-Therapy Institute and practices Zone Ther-

apy out of the Zone Healing Center at Art of Chiropractic, located at 541 E. Glenn Ave. He is an authorized instructor and has taught his techniques to various doctors in several states. He has also taught and participated in numerous weekend seminars designed to teach principles of health and healing.

Zone-Therapy is a drugless, non-surgical method of promoting the healing process by addressing specific areas of the spinal cord, that in turn, stimulate related neurological centers in the brain. And Dr.

Peacock sees it as the most effective way to retrain the body's nervous system, which helps the healing process.



Dr. Elliot Peacock, Art of Chiropractic's Zone Healing Center

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Available now. Spacious 3 Bedroom, 2 house a 579 Chewacla in Auburn. Hardwood, shaded one-half acre lot within walking distance to Auburn University. About 2200 sq. ft. \$1500.00 per month. Call 559-5554 for an appointment.

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